

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 60, 64-67, 71, 87, 91-94, 98, 143-154, 156-169 and 171-173 are in the case.

I. THE INTERVIEWS

At the outset, the undersigned wishes to thank the Examiner (Mr. Parker) for kindly agreeing to conducting a personal interview and a follow-up telephonic interview in this application. The personal interview was held on May 31, 2005, and the telephonic interview was held on June 13, 2005. The courtesies extended by the Examiner were most appreciated. As reflected in the Interview Summary Record completed by the Examiner at the termination of the personal interview, agreement was reached with respect to the subject matter of claim 155 which would overcome the prior art if incorporated into the independent claims in this application. While it was agreed at the personal interview that the term "active" as used in the claims might be qualified by "physiologically" or "biologically", the undersigned noted during the telephonic interview that upon further review the Applicant preferred to use the terminology "pharmaceutically or diagnostically" active. The deficiencies of the art combination of Staniforth and Zador against the subject matter were also briefly discussed. These deficiencies are developed in more detail below.

Based on the above, the claims have been amended in order to expedite prosecution of this case to a favorable conclusion. It is to be understood that applicants do not concede to the merit of any of the Examiner's points set forth in the outstanding Action, and cancellation of subject matter from the claims has been effected without

prejudice to the possibility to pursuing that subject matter in a separate continuing application. The specific points raised in the outstanding Action are discussed below.

II. PRIORITY

The Examiner has inquired as to the whereabouts of a cross-reference to earlier filed related applications. During the interview, it was noted that an amendment was presented in the transmittal cover sheet dated November 19, 2001 (Paper 31). The interview summary record indicates that this amendment overcomes the objection with respect to priority. Withdrawal of this objection is now respectfully requested.

III. SPECIFICATION

The specification has been amended to include customary headings, including a brief description of the drawings. No new matter is entered.

The specification has also been amended to correct the informality appearing at page 24, line 36 and to capitalize the trade marks as they are used in the working examples. No new matter is entered.

IV. THE ANTICIPATION REJECTION

Claims 60, 71, 87, 98, 143, 149, 154, 156, 158-164, 169, 171-173 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by GB 2253164 to Staniforth et al. In response, and without conceding to the merit of this rejection, the independent claims have been amended so as to be directed to the subject matter of claim 155 which is not

anticipated by Staniforth. Withdrawal of this rejection is accordingly respectfully requested.

V. THE OBVIOUSNESS REJECTIONS

Claims 64-66, 91-94, 144-148, 150-152, 165-168 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Staniforth et al. Claims 153 and 157 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Staniforth in view of U.S. Patent 4,128,445. In view of the amendment discussed above wherein the subject matter of claim 155 has been incorporated into the independent claims in this application, it is clear that above two obviousness rejections should now be withdrawn. Such action is respectfully requested.

Claims 84, 11 (sic), 155 and 170 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Staniforth in view of U.S. Patent 5,011,513 to Zador et al. That rejection is respectfully traversed.

The Examiner has pointed to page 12 of Staniforth, which states that:

“The invention may be used to apply a coating of controlled thickness and may be employed for a medicinal product containing a drug that is to be instantaneously released when administered or that is to be the subject of controlled or modulated release, such control or modulation being achieved from the nature of the coating and/or from the nature of the core.”

As discussed during the interview, Staniforth does not envisage the coating to be medicinal in nature. Zador relates to a single step fining pad for use in an ophthalmic application for polishing. Zador describes random coating of abrasive grains onto a maker coat using electrostatic propulsion techniques. Zador has nothing whatsoever to

do with coating a core of a pharmaceutical dosage form wherein the powder material comprises a pharmaceutically or diagnostically active material.

Based on the above, it is believed that Zador and Staniforth are non-analogous art, and one of ordinary skill would not have been motivated to combine those disclosures as suggested by the Examiner. Even if they has been combined (it is believed that this would not have been attempted by one of ordinary skill), the invention as now claimed would not have resulted or have been rendered obvious thereby. Absent any motivation to combine Staniforth and Zador, a *prima facie* case of obviousness is not generated in this case. Withdrawal of the outstanding obviousness rejection based on Staniforth and Zador is accordingly respectfully presented.

VI. CLAIM AMENDMENTS

As noted above, in order to expedite prosecution, and without conceding to the merit of any of the outstanding rejections, the independent claims in this application have been amended to incorporate the subject matter of claim 155. Moreover, the active material has been defined as a pharmaceutically or diagnostically active material. Basis for this amendment appears, for example, at page 19 which lists numerous pharmaceutically and diagnostically active agents, taken with the disclosure at page 20, beginning at line 21, which indicates that the coating material may be applied to a tablet core containing the same or a different active material, or may be applied to a core containing no active material. It is believed clear from this description that the powder material may comprise a pharmaceutically active material. No new matter is entered.

VII. IDS

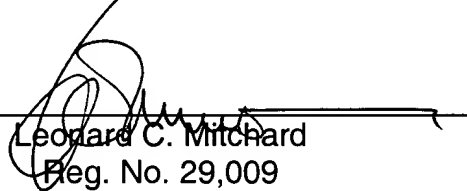
An Information Disclosure Statement is being submitted simultaneously herewith, along with the IDS fee. The Examiner is requested to initial the attached PTO 1449 and to return a copy of the initialed document to the undersigned with the next paper to issue in this case.

Favorable action in that regard is awaited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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Attachments: IDS, PTO 1449; references; IDS fee; extension request and fee